



GOVERNOR'S OFFICE OF BUSINESS AND ECONOMIC DEVELOPMENT

INITIAL STATEMENT OF REASONS AS AMENDED TO ADDRESS REVISIONS TO SECTIONS 8100, 8130, AND NEWLY ADDED SECTION 8150

Subject Matter of Proposed Regulations: Made in California Program

Sections Affected: Title 10, Chapter 13, Sections 8100-8150

Government Code sections 12098.10-12098.11 specifically authorize GO-Biz to prescribe rules and regulations as necessary to carry out the purposes of the Made in California Program.

Note: On June 2, 2015, the Governor's Office of Business and Economic Development ("GO-Biz") submitted new regulations (Title 10 CCR Sections 8100, 8110, 8120, 8130, and 8140) to the Office of Administrative Law ("OAL") to create a framework for operating the Made in California state labeling program ("CA Made" or "Program"). That action received OAL notice file number Z-2015-0602-07. The public comment period for the regulations closed on July 27, 2015. Since the initial public comment period, GO-Biz has determined that it is necessary to adopt a new Section 8150 to require an annual fee for licensees in the Program and to make corresponding changes to Sections 8100 and 8130. Because new Section 8150 and the related changes to Sections 8100 and 8130 introduce new subject matter into the regulations, it is considered a new rulemaking and subject to Administrative Procedure Act requirements for new rulemaking actions.

New rulemaking action notices must be published in the California Regulatory Notice Register ("CRNR") and provide a 45-day public comment period. Therefore, GO-Biz is publishing this revised Notice of Proposed Action ("NOPA") in the CRNR and posting all revised regulatory documents to the GO-Biz website and emailing those documents to the CA Made stakeholder list. The modified text of Sections 8100 and 8130 and the newly adopted text, Section 8150, will be subject to review and comment during a 45-day period beginning with publication of the NOPA in the CRNR. **The original, unmodified text, i.e., all sections and subdivisions other than Sections 8100 (k), 8130 (d)(2), and all of Section 8150, are not subject to any further public comment and will be adopted as shown, because this text has already been noticed to the public and emailed to CA Made stakeholders, published in the CRNR, and made available for comments for 45 days pursuant to OAL notice file number Z-2015-0602-07 (see CRNR dated 6/12/15).**

Modifications to this Initial Statement of Reasons are identified by ~~striketrough~~ for deletions and underline for additions. The revised regulatory documents have been posted on GO-Biz's website located at <http://business.ca.gov/Programs/SmallBusiness.aspx>.



A. Background

In 2013 Governor Edmund G. Brown Jr. signed Senate Bill 12 (Corbett, Chapter 541, Statutes of 2013), which created the Made in California Program ("CA Made" or "Program"). The Governor's Office of Business and Economic Development ("GO-Biz") is responsible for implementing and managing the Program.

The purpose of the Program is to encourage consumer product awareness and to promote the purchase of products manufactured in California. Agricultural products subject to the CA Grown program are excluded. In order for a business to use the CA Made label on its products, the law requires products to be "Made in U.S.A." as defined in section 17533.7 of the Business and Professions Code. In addition, 51 percent or more of the value added must be produced in California. To verify compliance with these requirements, businesses must obtain third-party certification prior to using the CA Made label.

In order to effectively administer the Program, GO-Biz is required to promulgate regulations because it is not exempt from the rule making process under the Administrative Procedure Act. The CA Made regulations provide a framework for operating the Program and ensure that all qualified applicants are provided the opportunity to participate in the Program.

To effectively manage the application process and the overall Program, GO-Biz adopted five distinct regulatory sections under Title 10, Chapter 13 to provide the framework of how to administer the Program. Specifically, GO-Biz created the following sections: (1) the definitions; (2) the application process; (3) the certification process; (4) the application review, rejection, approval, and renewal processes; and, (5) the CA Made licensing agreement and CA Made label usage. The rationale for each of these sections, its benefits, the alternatives considered, and the reliance on any other third-party data or empirical study, if any, are addressed below, unless explicitly excluded because the regulations are essential self-explanatory on their face.

B. Discussion of Sections Affected

(1) Section Affected: Chapter 13, Article 2, Section 8100 – Definitions.

Section 8100 adds twenty-five ~~four~~ (25) definitions that are used as part of the Program. Some of these terms are unique to this Program, while others have the potential for multiple definitions. Given the potential for multiple definitions, GO-Biz decided to define these terms to give them specific meaning under the regulations. A number of the definitions are self-evident based on the description of the definition (*e.g.*, website); thus, such definitions are not explicitly described below. The only definitions covered below are those that are subject to multiple meanings or are defined in a particular manner for this Program. In some instances, definitions are discussed collectively to provide context and to improve understanding. Each bulleted item below highlights one or more definitions that are defined in Section 8100 and are accompanied by a discussion of the issue being addressed by the definition, why the definition is necessary to carry out the purpose of the Program, the benefits anticipated from the regulatory action, including any technical, theoretical or empirical study, if any, upon which GO-Biz



relied, and the reasonable alternative definitions considered by GO-Biz and its reasons for rejecting those alternatives.

- “DIRECT AND INDIRECT LABOR COST,” “DIRECT AND INDIRECT MATERIAL COST,” “SALARY,” AND “WHOLESALE VALUE”

a. Issue being addressed:

To be eligible for the CA Made label, an applicant must affirm that his/her product was lawfully¹ “Made in U.S.A.” and “substantially made” in California.² Additionally, an applicant must submit a certification form from a third-party certifier that confirms that the product meets the Program’s requirements. GO-Biz developed a formula for applicants and third-party certifiers to assist them in determining whether a product satisfies the Program’s requirements. The formula was developed by examining various state programs, such as Made in Hawaii, and calculates the California value added share of the product based on the California “wholesale value” of the product and total production cost.

The California “wholesale value” is determined by the summation of the “direct and indirect material cost,” and “direct and indirect labor cost.” For further clarification of “direct and indirect labor cost” GO-Biz defined labor cost in terms of the “salary” paid to workers. GO-Biz defined “salary” as the amount of monetary compensation that is paid to a worker in return for work performed, but does not include tips, overtime, bonuses, benefits, or other compensation of any kind.

The total production cost is determined by the summation of the California “wholesale value,” the “direct and indirect material cost” from other states, and the “direct and indirect labor cost” from other states. To determine the value added share of the product, the California “wholesale value” is divided by the total production cost. Research and development is not included in the value added share of the product.

b. Anticipated benefits from this regulatory action:

Clear definitions of these Program-specific terms are necessary to promote accurate and consistent submission of information to GO-Biz by applicants. These definitions clarify the information that is being requested and provide a means to calculate the California value added share of the product. Additionally, the formula allows for consistency in how applicants and third-party certifiers confirm compliance with the Program.

¹ Per Section 12098.10(b)(1)(B) of the statute, the finished product could lawfully use a “Made in U.S.A.” label and not violate section 17533.7 of the Business and Professions Code.

² Per Section 12098.10(b)(1)(B)(2) of the statute, “substantially made” means completing an act that adds at least 51 percent of a final product’s wholesale value by manufacture, assembly, fabrication, or production to create a final recognizable product.



c. Underlying data:

For the definitions of “direct and indirect labor cost” and “direct and indirect material cost,” GO-Biz evaluated various definitions on websites such as Accountingtools.com, Wikipedia, and Accountcoach.com. Based on the results of our research, GO-Biz drafted definitions that were consistent with the variety of dictionaries consulted.

d. Consideration of alternatives:

Set forth below are the alternatives that were considered and the reasons each alternative was rejected:

- (i) GO-Biz staff initially sought to use definitions consistent with General Accepted Accounting Principles (GAAP). GO-Biz staff researched definitions for “direct labor cost,” “direct material cost,” “indirect material cost”, and “indirect labor cost” and discovered that GAAP does not provide or endorse such definitions.

- “THIRD-PARTY CERTIFIER” AND “FAMILIAR”

a. Issue being addressed:

CA Made requires third-party certification to verify that a product is lawfully Made in U.S.A and substantially made in California. The statute indicates that a qualified third-party certifier is an “individual, group, or association that possesses a professional license, certification, or other equivalent documentation indicating sufficient training, education, or expertise to perform a regulatory compliance audit.” The definition of “third-party certifier” in the regulations references this statutory language and includes three additional criteria.

GO-Biz staff developed the three criteria for a “third-party certifier” to provide applicants with additional guidance on how to find a third-party certifier and to maintain the integrity of the Program.

The additional criteria for the Program require that the “third-party certifier” be:

- (i) Legally and financially separate from the applicant;
- (ii) “Familiar” with the product being certified, meaning the “third-party certifier” has sufficient knowledge about the supply chain of the specified product(s) to verify the source of the product components in order to perform a third-party regulatory audit as set forth in Government Code section 12098.10 et seq.; and,
- (iii) Legally authorized to operate in California.

The criteria for a “third-party certifier” are inclusive of all potential industries that may participate in the Program. The criteria are intended to prevent conflicts of interest between applicants and third-party certifiers and deter individuals that are unqualified or in the



~~underground economy from acting to act~~ as third-party certifiers. Further, the definition of “familiar” is intended to provide flexibility to the Program, since the process of verifying the origin of a products components and respective value varies across industries depending on the complexity of materials comprised within a product. Together, the criteria uphold the integrity of the Program while enabling certifications to be issued by a variety of appropriate groups in a given industry.

b. Anticipated benefits from this regulatory action:

The definition of “third-party certifier” and “familiar” enable individuals from a variety of backgrounds to certify products. This is a significant benefit, as third-party certifiers are essential to the functioning of the Program. Additionally, the added criteria prevent conflicts of interest and third-party certifiers that are unqualified ~~or in the underground economy from participating to participate~~ in the Program.

c. Underlying data:

GO-Biz reviewed regulatory language from other state labeling programs concerning third-party certification. Other state labeling programs do not have a third-party certifier requirement. Other types of labeling programs (e.g., Certified Organic, Energy Star, fair trade, etc.) require third-party certification through the submission of desk audits, field audits, inventory forms, and/or verification from the business owner to certify compliance. A variety of groups provides this service. The certification process for each of these programs is technical and specialized, and not easily transferable to the certification process that will be needed for CA Made.

Based on the research conducted, GO-Biz was unable to identify a ~~single sole~~ certification group that would be better suited to carry out this role for the Program. GO-Biz interviewed certified public accountants, attorneys, industry associations and supply chain specialists, among other certification bodies. GO-Biz staff also spoke with the American National Standards Institute (ANSI), a certification body that adheres to the International Organization for Standardization (ISO). GO-Biz discovered that various groups could fulfill the role of “third-party certifier”, depending on the type of product being certified and the level of scrutiny required for a certification. However, given that the Program would cover such a wide array of products and goods, it would be limiting to identify one particular type of third-party certifier or standard. For instance, a product with a deep supply chain and many component parts could be required to satisfy a more rigorous supply chain review, which would be more time consuming and consequently cost more to certify. Similarly, if the Program required a certification performed onsite instead of a remote, desk audit, the certification would cost significantly more due to the need to travel to the site and examine the production practices. Thus, depending on the type of certification required, the third-party certification process could be cost-prohibitive to some businesses and prevent them from participating in the Program. To simplify the third-party certification process for applicants and allow the businesses to decide which type of certification



is best for them based on cost, liability exposure, and value, the regulations developed by GO-Biz allow for businesses to select from a range of industry experts to provide the certification.

d. Consideration of alternatives:

Set forth below are the alternatives which were considered and the reasons each alternative was rejected:

- (i) A possible alternative would have been to select one organization or business type to be the “third-party certifier” for the Program. GO-Biz declined this alternative because our research indicated that a variety of groups could perform this role. Selecting one certification body could result in needlessly limiting the supply of qualified certifiers available to applicants.
- (ii) GO-Biz could have required that third-party certifiers have a certain skill set or certain number of years of experience within a specific industry, professional licensure/examinations, and/or a certain level of educational attainment. Based on GO-Biz’s research, there is no specific set of qualifications that would indicate if a certifier is capable of satisfying the requirements in the Program for a given industry and product.

- “APPLICANT”

a. Issue being addressed:

An “applicant” is any taxpayer, including, but not limited to, any individual, corporation, or partnership applying for the CA Made license that is legally authorized to do business in California. This definition describes two key qualifications for applicants of the Program. First, any individual or business entity may apply for the Program. Second, the applicant must meet any legal requirements that pertain to his/her operation.

b. Anticipated benefits from this regulatory action:

This definition describes the types of “applicants” that are eligible to apply for the Program and prevents the Program from having applicants that are in the underground economy.

c. Underlying data:

GO-Biz did not review or analyze any underlying data for the definition of “applicant.”

d. Consideration of alternatives:

- (i) There are no reasonable alternatives to the definition of “applicant” that would ensure full compliance with the Program being implemented.
- (ii) To not define who is an eligible CA Made “applicant.” This option was rejected because it would provide no guidance, would not resolve ambiguity in the statute, and would result in



ineligible “applicants” applying and/or otherwise eligible “applicants” not applying because of the lack of clarity on eligibility.

- “LICENSE,” “LICENSEE,” AND “LICENSING AGREEMENT”

a. Issue being addressed:

The definition of “licensing agreement” states that it is a contract between the “licensee” and GO-Biz describing the terms and conditions of using the “license.” The “licensing agreement” is contingent upon the submittal of the application form, certification form, and other requested information, further described in Section 8110 of the Made in CA regulations.

b. Anticipated benefits from this regulatory action:

The “licensing agreement” describes the legally binding agreement between the applicant and GO-Biz. It clarifies responsibilities the “licensee” must adhere to in order to participate in the Program and use the CA Made label. It also allows GO-Biz to monitor licensing agreements that expire and/or terminate agreements if the applicant has not demonstrated the ability to comply with the requirements of the Program.

c. Underlying data:

GO-Biz reviewed other state labeling program licensing agreements, such as California Grown and Hawaii Seals of Quality, to determine appropriate terms and conditions for the “licensing agreement.” When drafting the definition, GO-Biz considered how the “licensee” would be able to use the “license” to promote his/her product, and allow for safeguards of inappropriate use of the CA Made label.

GO-Biz did not review or analyze any underlying data for the definitions of “license” and “licensee.”

d. Consideration of alternatives:

- (i) There are no reasonable alternatives to the definitions of “license,” “licensee,” and “licensing agreement” that would ensure full compliance with the Program being implemented.

(2) Section Affected: Chapter 13, Article 2, Section 8110 (a)-(g) – Application Process for CA Made Label.

a. Issue being addressed:

Some aspects of this section are deemed self-explanatory and are therefore not addressed in this section. The remainder of the application requirements is grouped together for the sake of clarity and to reduce redundant explanations.



Subdivision (a) – (c) of Section 8110 establishes that applications shall be accepted by GO-Biz on a rolling basis, and that GO-Biz shall review, finalize, and execute licensing agreements at the beginning of each quarter. Applications shall be accepted online via a password-protected website, where applicants will be able to create an account profile and establish a login and password on the designated website. The intent of this language is to provide applicants with information on how GO-Biz will process applications and how applicants can apply via the online application.

Subdivision (d) of Section 8110 details the information (e.g., contact information, type of business entity, whether the business is legally authorized to operate in California, etc.) applicants will need to provide as part of the application form. This section also requires the applicant to identify the product for which the applicant is seeking the CA Made label, categories the product falls under, and requires the applicant to provide a brief description of the product. Additionally, applicants are required to upload a picture of their product, information on their product for marketing purposes, and provide a business biography for the website listing. This information is used to identify the applicant, obtain contact information, collect Program data, and to create marketing opportunities on the website for the applicant's product and business.

Subdivision (e) - (g) of Section 8110 describes the authorization that the applicant is giving to GO-Biz. The applicant signs and dates an acknowledgement statement that provides GO-Biz authorization to perform various activities (e.g. alter style and format of marketing materials, use product information, photos, and business biographies on the website, etc.), some of which requires written permission from the applicant.

b. Anticipated benefits from this regulatory action:

The information applicants are required to submit as part of the application provides GO-Biz with clear, concise, and necessary information to review applications and operate the Program. This allows GO-Biz staff to fairly and consistently evaluate each application and obtain information that will be needed to correspond with applicants, understand the composition of Program applicants and licensees, and market products on the website. The terms and conditions help ensure that applicants will meet the requirements of the Program.

c. Underlying data:

GO-Biz researched other state labeling program application forms and processes. GO-Biz identified key information from various application forms that would be needed by GO-Biz to operate the Program. GO-Biz met with IT professionals to ensure that the form could be incorporated into a secure online platform and with GO-Biz counsel to develop the terms and conditions and verify that a click-through signature would be as legally binding as a wet signature. Based on these findings, GO-Biz created a concise application form that will allow for a fair and consistent evaluation of applications.



d. Consideration of alternatives:

- (i) GO-Biz considered requiring applicants to submit paper copies of their application, ~~charging an application fee,~~ and not requiring photos and business biographies. GO-Biz selected an online application platform to process applications more efficiently. ~~GO-Biz decided to not include an application fee to encourage participation in the Program.~~ GO-Biz decided to require a product photo and business biography to enable the Program to market Program products on the website and in other marketing materials.
- (ii) Not clarifying these requirements. If GO-Biz did not provide guidance as to what information should be submitted, it would result in GO-Biz either not receiving sufficient information and/or receiving information in an inconsistent manner that would render it virtually impossible to fairly and consistently evaluate applications for the Program. This option was rejected because it would have provided inadequate guidance to applicants.

(3) Section Affected: Chapter 13, Article 2, Section 8120 (a)-(f) – Certification Process for CA Made Label.

a. Issue being addressed:

Some aspects of this section are deemed self-explanatory (e.g., name of product being certified) and are therefore not addressed in this section. The remainder of the requirements for the certification process is grouped together for the sake of clarity and to reduce redundant explanations.

Subdivision (b) – (d) of Section 8120 provides the third-party certifier with guidance on how to determine whether a product satisfies the requirements of the Program. A formula is provided to assist third-party certifiers in calculating the 51% or more made in California requirement. The formula calculates the California value added share of a product, which is based on the California wholesale value of the product and total production cost. GO-Biz also provides third-party certifiers with a list of documents that they may rely upon to determine if a product meets the requirements set forth in the Program. The formula is not required and the list is not prescriptive or exhaustive. Rather, both are intended to provide assistance to third-party certifiers on how to verify the origin of materials.

Subdivision (e) of Section 8120 clarifies the information (e.g., legal entity business name, fictitious business name, etc.) that third-party certifiers will be required to provide as part of the certification form. It also clarifies that third-party certifiers will be required to acknowledge that they meet the Program's requirements for third-party certifiers and provide a brief description on how those requirements have been met. In addition, this section requires the name and description of the products to be certified, an acknowledgement from the third-party certifier that the product meets the Program requirements, and a description of the documents that were reviewed by the third-party certifier to perform the certification. This information is used by GO-Biz to determine how the third-party certifier verified the eligibility of the product.



Finally, this section clarifies that the third-party certifier will be required to sign that all content on the form is correct and true to the best of his/her knowledge.

b. Anticipated benefits from this regulatory action:

The certification form provides a flexible framework that allows individuals to use a variety of appropriate methods to certify products across diverse industry types. It requires the third-party certifier to describe his/her qualifications, identify the documentation used, and acknowledge his/her understanding of the product and certification requirements.

c. Underlying data:

GO-Biz researched value added formulas (e.g., Made in Hawaii) and certification programs (e.g., Certified Organic, Energy Star, fair trade, etc.) for desk auditing procedures. Based on those examples, GO-Biz identified documentation that would be necessary to confirm that Program requirements would be met.

d. Consideration of alternatives:

- (i) GO-Biz considered requiring that an onsite audit be performed by third-party certifiers. This option was rejected because it would cost significantly more and potentially render the Program cost prohibitive for small businesses. GO-Biz also deemed it unnecessary, since a variety of groups could perform a remote “desk” audit using various types of documentation.
- (ii) Another alternative was to create a certification form that required the third-party certifier to provide a detailed report on the certification performed. This option was rejected because GO-Biz sought to minimize the time and cost associated with this process. In addition, no other state labeling program that GO-Biz examined required such a report.

(4) Section Affected: Chapter 13, Article 2, Section 8130 (a)-(hg) – Application Review, Rejection, Approval, and Renewal Processes.

a. Issue being addressed:

Subdivision (a) – (hg) of section 8130 specifies the application review process for the Program. All applications are reviewed by GO-Biz staff for completeness. Applicants are notified if GO-Biz needs additional information to process their application. GO-Biz provides applicants the opportunity to revise or withdraw an application at any time on the website prior to the execution of a licensing agreement. This enables the applicant to modify the application if necessary.

If the application is approved, an annual fee is imposed and a licensing agreement is prepared between GO-Biz and the applicant. GO-Biz will fully execute the licensing agreement once GO-Biz receives payment of the fee and the licensee executes the licensing agreement. Any changes



to the information submitted in Section 8110(d) after the execution of a licensing agreement must be reported by the licensee to GO-Biz within 30 days by updating the applicant's account profile on the CA Made website.

If the applicant has not demonstrated the ability to comply with the requirements or achieve the purposes of the Program, an application may be rejected. The applicant cannot appeal the process, but has the right to reapply for the license. Once a certification term ends, the licensing agreement expires and the license becomes invalid. In order to renew a license, an applicant must submit a new application.

b. Anticipated benefits from this regulatory action:

This section clarifies the application review, rejection, approval, and renewal process to which GO-Biz will adhere. It also provides applicants with an option to modify language in the application and specifies responsibilities of applicants if they change their application.

c. Underlying data:

GO-Biz reviewed the application review, rejection, approval and renewal processes of other state labeling program regulations (e.g., Made in Alaska, Made in Montana, California Grown, etc.). Based on the results of our research, GO-Biz developed similar guidelines for compliance with the Program.

d. Consideration of alternatives:

GO-Biz considered requiring applicants to submit a new application if changes were needed, instead of providing them the option to modify or edit the application before the licensing agreement is executed. This alternative was rejected because it would have created additional information for GO-Biz to review and would have required applicants to complete multiple applications.

In addition, -GO-Biz considered charging applicants a fee upon receipt of an application instead of upon application approval. This would have included applicants that are later rejected and applicants that decide to withdraw their application. GO-Biz chose to not impose the fee on these groups, since they will not receive the services or benefits of the Program.

(5) Section Affected: Chapter 13, Article 2, Section 8140 (a)-(c) – CA Made Licensing Agreement and CA Made Label Usage.

a. Issue being addressed:

Subdivision (a) – (c) of Section 8140 describes the rights and limitations of using the CA Made label, which the licensee and GO-Biz will agree to in a license agreement between the parties. This includes representation of the CA Made label in advertisements and marketing materials.



The CA Made label cannot be its own mark or the exclusive representation of the product. If a particular use of the CA Made label is inconsistent with the licensing agreement, GO-Biz may terminate the licensing agreement or require the licensee to discontinue that particular use of the CA Made label.

b. Anticipated benefits from this regulatory action:

This protects the CA Made label and the integrity of the Program by promoting consistent use of the CA Made label. It also provides GO-Biz with the option to execute specific actions if a particular use of the label conflicts with the licensing agreement.

c. Underlying data:

GO-Biz reviewed other state labeling program licensing agreements (e.g., Made in Alaska, Made in Montana, California Grown, etc.) and current licensing agreements within GO-Biz. GO-Biz legal counsel drafted a licensing agreement based on the requirements of the Program and other licensing agreements within GO-Biz.

d. Consideration of alternatives:

GO-Biz considered excluding the licensing and label usage procedures from the regulations. This option was rejected, because GO-Biz wanted to provide prospective applicants with clarity on the rights and limitations associated with using the CA Made label.

(6) Section Affected: Chapter 13, Article 2, Section 8150 (a)-(e) – Fee Imposition, Structure, and Management.

a. Issue being addressed:

Subdivision (a) – (e) of Section 8150 describes that a fee will be imposed on all licensees on an annual basis and the amount will be determined based on the number of products included in an approved application, with a not to exceed amount for each approved application. It also describes how the fee will be collected and deposited.

Section 12098.10 of the CA Government Code authorizes GO-Biz to collect a fee to recover the cost of implementing and marketing the Program. The fee was established based on fees charged by comparable state labeling programs and with the intent of maintaining affordability for small businesses. By the fifth year of the Program, the fee is estimated to generate \$13,250 annually for marketing costs from an estimated 125 licensees. Membership is estimated to increase incrementally as the marketing campaign matures and the CA Made label's value is established. Actual Program revenue will depend on the quantity of products that are able to qualify, the supply and cost of third-party certifiers, and the overall success of the marketing campaign.



Estimated CA Made Program Licensees and Products at Year 5

<u>Category</u>	<u>Application Type</u>			<u>Total</u>
	<u>1 Product</u>	<u>2 Products</u>	<u>3 or More Products</u>	
<u>Number of Licensees by Type of Application</u>	<u>100</u>	<u>20</u>	<u>5</u>	<u>125</u>
<u>Fee per Licensee</u>	<u>\$100</u>	<u>\$125</u>	<u>\$150</u>	<u>-</u>
<u>Total Fee Revenue</u>	<u>\$10,000</u>	<u>\$2,500</u>	<u>\$750</u>	<u>\$13,250</u>

b. Anticipated benefits from this regulatory action:

On a programmatic level, this section provides a mechanism for the Program to generate revenues to partially offset Program costs and promote the Program's long term fiscal sustainability. In addition, this section establishes a fee that is transparent to calculate, comparable to other state labeling program fees, and subject to a rate ceiling to maintain affordability.

This section informs applicants that an annual fee will be issued once an application is approved and will be required of all licensees to fund services provided by the Program. It also clarifies how fees will be determined for each licensee.

c. Underlying data:

GO-Biz reviewed fee amounts charged by comparable state labeling programs (e.g., Made in Alaska, Made in Montana, and Maine Made) and the methods of calculation. Many of these programs have fees that are calculated on a per-product basis with a rate ceiling. GO-Biz obtained fee information from other programs through phone interviews and online program applications. The rulemaking file includes the applications from other programs that GO-Biz relied upon to help determine fee amounts.

d. Consideration of alternatives:

GO-Biz considered not charging a fee, but GO-Biz determined that Program revenues will be needed to offset some Program costs. GO-Biz also considered charging a fee that would fully offset the Program costs. However, the fee amount that would result would render the Program cost prohibitive to businesses, especially in light of the third-party certification cost that will also be required.



C. Anticipated Overarching Benefits of the Entire Proposed Regulatory Package:

This regulatory package ensures that the competitive process is open and transparent, while making it clear to applicants the information they will need to gather and submit as part of the application and evaluation processes.

Through the creation of this new Program, and these proposed regulations, GO-Biz hopes to encourage consumer product awareness and to promote the purchase of products manufactured in California.

The proposed regulations improve the business climate by promoting the purchase of California goods in California, out of state, and internationally.

D. Reasonable alternatives to the regulation and GO-Biz's reasons for rejecting those alternatives

No other alternatives were presented to or considered by GO-Biz.

E. Reasonable Alternatives to the Proposed Regulatory Action that would Lessen any Adverse Impacts on Small Businesses

GO-Biz has not identified any alternative that would lessen any adverse impact on small businesses. To the contrary, a significant portion of these proposed regulations, as noted, provide clarity and reduce the amount of time and cost for applicants to join the Program. The purpose of the Program is to assist businesses in promoting their products domestically and internationally.

F. Evidence Supporting Finding of no Significant Statewide Adverse Economic Impact Directly Affecting Business

The Program is completely voluntary and therefore has no adverse economic impact on businesses. Businesses have the option of participating in the Program and being subject to the, because no requirements or and responsibilities are that these regulations imposed on businesses by these regulations licensees. Since there is no the monetary fee to participate in the Program is negligible, businesses will not face a financial hardship if they apply receive a license to use for the CA Made label. Moreover, the negligible fee and this allows both small and large businesses access to the Program.

Additionally, the Program provides applicants the opportunity to modify and/or edit their application, thus allowing the most accurate information relating to the product to be available to the public. This process also allows for transparency for businesses interested in participating in the Program and for consumers that seek to purchase products that use the CA Made label.



G. Economic Impact Analysis

The Program is completely voluntary and therefore has no adverse economic impact on businesses. Businesses have the option of participating in the Program and being subject to the requirements and responsibilities that these regulations impose on licensees. Since the monetary fee to participate in the Program is negligible, businesses will not face a financial hardship if they receive a license to use the CA Made label. Moreover, the negligible fee allows both small and large businesses access to the Program.

Additionally, the Program provides applicants the opportunity to modify and/or edit their application, thus allowing the most accurate information relating to the product to be available to the public. This process also allows for transparency for businesses interested in participating in the Program and for consumers that seek to purchase products that use the CA Made label.

~~The Program is completely voluntary and therefore has no adverse economic impact on businesses, because no new requirements or responsibilities are imposed on businesses by these regulations. Since there is no monetary fee to participate in the Program, businesses will not face a financial hardship if they apply for the CA Made label and this allows both small and large businesses access to the Program. Additionally, the Program provides applicants the opportunity to modify and/or edit their application, thus allowing the most accurate information relating to the product to be available to the public. This process also allows for transparency for businesses interested in participating in the Program.—~~

~~Based on GO Biz's analysis of the Program and similar state labeling programs in other states, GO-Biz has determined that the Program may promote the expansion of businesses that are part of the Program by helping to market licensee products and consequently boost sales. The Program is not estimated to affect the creation or elimination of jobs and/or businesses for the following reasons: it is uncertain how much sales could increase for licensees as a result of the Program; the business participation rate in the Program is unknown; and the Program does not require or provide incentives for hiring employees or creating new businesses.~~

Benefits of the Regulation

The regulations provide a framework for the Program to operate. They detail the application process for prospective applicants interested in applying to the Program and provide guidance on how to meet the Program's requirements, as well as the right and limitations of using the CA Made label. The regulations also, although voluntary, encourage participation in the Program and have the potential to create an indirect impact to the economic and general welfare of California if the Program results in increased demand for products made in California.

GO-Biz has determined that the regulations do not provide direct benefits to the health of California residents or to worker safety or the environment.